In my judgment the notice need not be as precise as the summons; it is the summons that must be precise. The notice is merely to refresh the offender's mind as to the facts which may be the substance of a charge. Its object is to acquaint the offender promptly that he may be prosecuted so that he may be able to collect material for his defence while the matter is still fresh in his mind and that of potential witnesses; so the sooner the notice is given the better. (See *Sandland* v. *Neale* [5]).

In dealing with the particularity of the notice required under section 56(1) the words are *inter alia* "specifying the nature of the alleged offence" and not "specifying the offence" or "the particular offence". In my opinion, those words do not necessarily mean that a notice must be a notice of the particular section of the Ordinance under which the prosecution is contemplated. Nor do I held the view that at the time when that notice was given it was necessary that the police officer or other authority should have definitely made up his mind which particular charge was to be preferred. Only the "nature of the alleged offence" and not the particular offence itself need be specified.

For the above reasons, I would allow the the appeal, set aside the lower court's order of acquittal and direct that the defence be called.

Appeal allowed.

Solicitors: *Khoo & Sidhu.*

PUBLIC PROSECUTOR v. TAN KIM CHOK

[R.Cr.J. (Chang Min Tat J.) October 1, 1968]
[Ipoh — Criminal Revision No. 16 of 1968]

Criminal Law and Procedure — Sentence of whipping — Accused over 50 years of age — Criminal Procedure Code (Cap. 6), s. 289.

The accused had been sentenced to 4 months imprisonment and 2 strokes of the rattan. The accused was over 50 years of age.

Held: the sentence of whipping was in breach of section 289 of the Criminal Procedure Code and must be set aside.

CRIMINAL REVISION.

M. Mahalingam (Deputy Public Prosecutor) for the applicant.

Respondent in person.

Chang Min Tat J. (delivering oral judgment): The sentence passed on the accused in this case of four months imprisonment with effect from the date of arrest and two strokes of the rattan was brought to my notice by the trial president of the Sessions Court. Subsequent to passing the sentence the learned president realised that the sentence was in breach of section 289 of the Criminal Procedure Code. The accused was clearly a man above 50 years of age and should not be subject to any whipping by reason of his age. The order of whipping therefore cannot stand. The sentence of imprisonment as to four months from the date of his arrest was obviously arrived at because of the sentence of whipping. It is manifestly inadequate but in view of the undertaking by the accused that he would not molest his wife in future, I shall not increase the sentence except to make it run from the date of conviction.

Order accordingly.

PUBLIC PROSECUTOR v. YUEN PENG LAM

[R.Cr.J. (Chang Min Tat J.) October 1, 1968]
[Ipoh — Criminal Revision No. 17 of 1968]

Criminal Law and Procedure — Sentence — Fines — Default sentences should run consecutively — Courts Ordinance, 1948, s. 102(c).

The learned magistrate had in imposing fines on two charges against the respondent ordered that the sentences in default of payment should run concurrently.

Held: the order was wrong and in contravention of section 102(c) of the Courts Ordinance, 1948 and therefore should be varied, so as to make the default sentences run consecutively.

CRIMINAL REVISION.

Chang Min Tat J. (delivering oral judgment): The order of the learned magistrate making the default sentences on the two charges to run concurrently is wrong and is in contravention of section 102(c) of the Courts Ordinance 1948. The learned magistrate has now referred this matter for revision. Accordingly I set aside the order of concurrency and substitute therefor an order that the default sentence run consecutively.

Order accordingly.

NASIB SINGH v. RAMASAMY

[A.C.J. (Ibrahim J.) October 5, 1968]
[K.L. — Civil Appeal No. 26 of 1967]

Practice and Procedure — Illegality — Not pleaded — Illegality brought to attention of court — Duty of court — Promissory note in English language not attested — Moneylenders Ordinance, 1951, s. 27.

Moneylenders — Promissory note — Not attested — Illegality not pleaded.

This was an appeal against the decision of the President, Sessions Court, Kuala Lumpur, dismissing the claim of the appellant for $1,870.70. The learned president found that the respondent did not under-